

Amend Section 1.67  
Title 14, California Code of Regulations  
Re: Native Reptiles and Amphibians

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regardless of their origin. This will address the interpretation issue since it readily eliminates origin as a consideration for what specimens would not be considered native.

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 220, 5061 and 6896, Fish and Game Code.

Reference: 200, 202, 205, 220, 5060, 5061, 6895 and 6896, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

A possible alternative is changing individual Title 14 sections that relate to amphibians and reptiles. This approach holds the potential for multiple regulation changes rather than a single central change of the basic definition of native reptiles and amphibians.

(b) No Change Alternative:

If no change is made then Section 1.67 continues not to be clearly understandable as it relates to what is or is not a native reptile or amphibian.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. A fundamental concept of state regulations concerning native wildlife is that commercialization is not the norm. This amendment closes loopholes centering on activity that commercializes species and subspecies indigenous to California. However, based on traditional California law the commercialization of native reptiles and amphibians is extremely limited and is a very minor part of the California economy. Additionally, present permit processes would let authorized commercial activity to take place within California.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

## Informative Digest/Policy Statement Overview

Currently Section 1.67, Title 14, California Code of Regulations (CCR), leaves its intent open to possible misinterpretation. Some may interpret that specific specimens of amphibians and reptiles that are imported into California, which are the same species or subspecies of indigenous California animals, are not native to California pursuant to Section 1.67. Such an interpretation can result in importation of reptiles and amphibians, although of the same species or subspecies as indigenous California specimen, for commercialization purposes. This can then lead to illegal commercialization of specimens that originate from the wild in California but are presented as being imported from another state.

Section 1.67 should be clearly understandable by both those who enforce and those who are directly affected by state regulations. Unclear regulatory language can cause an additional burden of proof which may hinder effective enforcement of Title 14 sections that rely on, at least in part, the definition of amphibians and reptiles found in Section 1.67. If the courts determine that regulations are not clear it can result in lack of prosecution of people illegally commercializing and/or poaching California native reptiles and amphibians.

Section 1.67 does not currently state that an individual specimen claimed to have been taken or produced in another state is nonetheless a native specimen, since it is of a species or subspecies indigenous to California. The more clearly this definitive section is the better it serves the enforceable Title 14 sections which are meant to protect native species and subspecies of amphibians and reptiles.

The regulations proposal directly states that the definition includes all specimens regardless of their origin. This will address the interpretation issue since it readily eliminates origin as a consideration for what specimens would not be considered native.